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September 26, 2023

via ECF

The Honorable Vernon S. Broderick
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

RE: *True Return Systems LLC v. MakerDAO*, No. 22-cv-8478 (VSB)
Our File: TRUE.220216.MAK

Dear Judge Broderick:

The purpose of this letter is to bring to the Court's attention a proceeding before the United States Patent and Trademark Office ("USPTO") concerning the patent in suit in this action.

On September 7, 2023, a petition to institute an Inter Partes Review for U.S. Patent No. 10,025,797 was filed by the DeFi Education Fund, an advocacy group. *See Petition to Institute an Inter Partes Review for U.S. Patent No. 10,025,797 Under 37 C.F.R. § 42.100 et seq.*, No. IPR2023-01388 (filed Sept. 7, 2023). A determination by the USPTO on whether to proceed with this review has not yet been made and may not come for three months or longer. *See* 35 U.S.C. § 314(b). It is Plaintiff's position that this petition should not impact the schedule for the action pending before the Court.

However, this petition has highlighted the importance of identifying the real parties in interest in Defendant's organization. The existence of crossover between the membership of the Defendant and the Petitioner is relevant to estoppel under 35 U.S.C. § 315(e)(2), efforts to circumvent this Court's jurisdiction and litigation by proxy, and Plaintiff's ability to secure and enforce a judgment. While Defendant's counsel has denied that Defendant had any involvement in the Petition, there is evidence that suggests that Defendant's *members* may indeed be involved.¹


Accordingly, on September 13, 2023, Plaintiff made a demand under Local Civil Rule 26.1 for a verified statement identifying the partners and members in Defendant's organization, which request Defendant improperly and summarily refused. *See* Exhs. A and B, respectively.

¹ For example, the Petition states that "[w]ithout conceding that the following parties are in fact real-parties-in-interest, Petitioner also identifies the DAI Foundation, Andreessen Horowitz, and Paradigm. Each of these parties has agreed to be named as a potential real-party-in-interest." Upon information and belief, the DAI Foundation was formed by Defendant MakerDAO and controls the intellectual property of MakerDAO. *See* <https://daifoundation.org/mandate/> and <https://daifoundation.org/>.

Plaintiff respectfully requests a status conference to discuss the foregoing.

Respectfully submitted,

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By:  _____

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Encl.

cc: All Counsel of Record (via ECF)